



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,183	10/20/2003	Felix L. Sorkin	1101-170	6671

7590 05/25/2006  
John S. Egbert  
Harrison & Egbert  
412 Main Street, 7th Floor  
Houston, TX 77002

EXAMINER
----------

GRAYSAY, TAMARA L

ART UNIT	PAPER NUMBER
----------	--------------

3636

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/688,183	<b>Applicant(s)</b> SORKIN, FELIX L.	
	<b>Examiner</b> Tamara L. Graysay	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-32 is/are allowed.
- 6) ☒ Claim(s) 33-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The indicated allowability of claims 34-40 (previously presented claims 14-20) is withdrawn in view of the newly discovered reference to Taylor (GB-2316961). Rejections based on the newly cited reference(s) follow.

#### ***Drawings***

2. The drawings are objected to because of the following:

In FIG. 2 at the center of the top half, an arrowed lead line without a reference character appears above reference character 16.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

3. The disclosure is objected to because of the following informalities:
  - a. The first sentence of the specification, line 3: [presently pending] should be changed to now U.S. Patent 6,775,954
  - b. The first sentence of the specification, line 3: a continuation-in-part should be inserted after "and"

Art Unit: 3636

c. The first sentence of the specification, line 4: [presently pending] should be changed to now U.S. Patent 6,772,571

d. Claim 36, line 1: [34] should be changed to 35 to provide antecedent basis for the claimed elongate members.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 36: "said first and second elongate members" lacks clear antecedent basis in the claim. It appears that the claim should be dependent upon claim 35, which provides antecedent basis for the recited elements, not claim 34. *The claim has been treated as dependent upon claim 35.*

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 33-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (GB-2316961).

a. Claim 33: Taylor discloses an article comprising: a plate (4; FIG. 1) having a generally flat bottom surface (surface 7 is “generally flat” as broadly recited); a first receptacle (9) formed on one side of the plate; and a second receptacle (9) formed on an opposite side of the plate; the article is made of polymeric (plastic). The product by process limitation, i.e., extruded, does not structurally define over the reference as applied to the claims because the reference article is made of a polymeric, e.g., plastic.

b. Claim 34: The first and second receptacles of Taylor are C-shaped, extending for a length along the plate, and facing each other (FIG. 1).

c. Claim 35: Taylor includes a first elongate member (clip 5 at the left side of FIG. 2) that extends along a length of the plate and extends upwardly therefrom; and a second elongate member (clip 5 at the right side of FIG. 2) that extends along a length of the plate and extends upwardly therefrom in generally spaced parallel relationship to the first elongate member.

d. Claim 36: The first and second elongate members (clips 5) are positioned centrally between the first and second receptacles as evidenced by FIGS. 1, 2 of Taylor.

e. Claim 37: The Taylor C-shaped sides are suitable for receiving a bolster therein (the C-shaped sides 9 are suitable for receiving a bolster because they are suitable to receive spacer body 3; FIG. 1).

f. Claim 38: Taylor discloses an article comprising: a plate (4; FIG. 1) having a generally flat bottom surface (surface 7 is “generally flat” as broadly recited); a first receptacle (9) formed on one side of the plate; and a second receptacle (9) formed on an opposite side of the plate; the article is made of polymeric (plastic). The product by process limitation, i.e., extruded, does not structurally define over the reference as applied to the claims because the reference article is made of a polymeric, e.g., plastic. Taylor further includes a first elongate member (clip 5 at the left side of FIG. 2) that extends along a length of the plate and extends upwardly therefrom; and a second elongate member (clip 5 at the right side of FIG. 2) that extends along a length of the plate and extends upwardly therefrom in generally spaced parallel relationship to the first elongate member.

g. Claim 39: The first and second receptacles of Taylor are C-shaped, extending for a length along the plate, and facing each other (FIG. 1).

- h. Claim 40: The product by process limitation, i.e., extruded, does not structurally define over the Taylor reference as applied to the claims because the reference article is made of a polymeric, e.g., plastic, and one-piece construction.

***Terminal Disclaimer***

6. The terminal disclaimer filed on 03 February 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 6772571 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Allowable Subject Matter***

7. Claims 21-32 are allowed.

*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Metcalf (US-2229758) teaches an article comprising a plate (16) having C-shaped sides (17, 18; FIGS. 1, 2) for receiving the feet (14, 15).
- Mallanik (US-3053930) discloses an article comprising: a plate (401; FIG. 4) having a generally flat bottom surface; a first receptacle (413) formed on one side of the plate; and a second receptacle (415) formed on an opposite side of the plate; a first elongate member (419a) extending along a length of the plate and extending upwardly therefrom; and a second elongate member (419b) extending along the length of the plate and extending upwardly therefrom in a generally spaced parallel relationship to the first elongate member. The first receptacle (413) of Mallanik is defined by a first C-shaped side (403) of the plate extending for a length of the plate; and, the second receptacle (415) of Mallanik is defined by a second C-shaped side (405) of the plate extending for a length of the plate.
- Rambelle (US-3385557) teaches an article comprising a plate (22) and C-shaped sides (24).
- Ghali (US-5655349) teaches a beam (reinforcing member 30) retained in place using an article (36, 37) having C-shaped sides for receiving a foot (35) (e.g., FIGS. 1, 3, 4).
- Kazuma (JP-10273952) teaches a plate having first and second receptacles that are C-shaped and facing each other (FIG. 5). The element is made of elastic material, such as synthetic resin.
- Taylor (FR-2206619) teaches an article having a plate (1), C-shaped sides (the outer members of element 2 in FIG. 3), and two elongated members (the inner members of element 2 in FIG. 3). The article is plastic, such as polyolefin or recycled plastic. The article may be molded or extruded.
- Rheinbau (FR-2208037) teaches (FIG. 1) a plate (2, 1) opposing C-shaped sides (5), and two elongated members (e.g., the vertical member forming element 8).
- Vuillaume (GB-2219712) teaches an article having a plate (the horizontal portions in FIG. 6C), C-shaped sides (the portions of FIG. 6C that are opposed to each other near the drawing figure letter). The article is inorganic material.

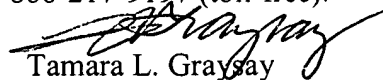


Art Unit: 3636

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is 571-272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo, can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tamara L. Graysay  
Examiner  
Art Unit 3636

20060517